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Human resources management

Joint Inspection Unit

Ethics in the United Nations system

Note by the Secretary-General

The Secretary-General has the honour to transmit, for the consideration of the General Assembly, his comments and those of the United Nations System Chief Executives Board for Coordination on the report of the Joint Inspection Unit entitled "Ethics in the United Nations system" (JIU/REP/2010/3).

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Summary

The report of the Joint Inspection Unit (JIU), entitled "Ethics in the United Nations system" (JIU/REP/2010/3) follows up on a previous report of JIU on oversight lacunae "in order to determine progress, lessons learned and best practices in establishing and implementing the ethics function throughout the United Nations system". This report reviews the staffing, funding and responsibilities of the ethics offices in place throughout the system.

The present report contains the views of United Nations system organizations on the recommendations provided in the JIU report. The views of the system have been consolidated on the basis of inputs provided by member organizations of the United Nations System Chief Executives Board for Coordination (CEB), who welcomed the comprehensive review of the ethics functions contained in the JIU report, and concentrated their comments mainly on the individual recommendations. Their general comments focused on the standards proposed, the details of the ethics functions across the system and the role of the ethics offices. While generally accepting the recommendations, agencies expressed concern regarding several of them, including the concept of a shared ethics function among smaller agencies.

I. Introduction

1. The Joint Inspection Unit report entitled "Ethics in the United Nations system" follows up on a previous report of JIU on oversight lacunae in order to determine progress, lessons learned and best practices in establishing and implementing the ethics function throughout the United Nations system. The report reviews the staffing, funding and responsibilities of the ethics offices in place throughout the system.

II. General comments

2. CEB members welcomed the comprehensive review of the ethics functions described in the JIU report and concentrated their comments mainly on the individual recommendations. Their general comments focused on the standards proposed, the details of ethics functions across the system and the role of the ethics offices.

3. Agencies noted that JIU had presented "suggested standards" for the operation of ethics offices. Agencies appreciated the effort that creating these standards entailed, considering that they were based on input received by JIU from many sources. However, agencies advised that these should not be seen as established standards for the professional practice of ethics in the United Nations. Agencies indicated that professional standards should be established by ethics officers themselves, perhaps through the growing mechanisms of the United Nations Ethics Committee and the system-wide ethics network, representing inter-agency networks of international ethics officers.

4. Agencies noted that, in compiling the report, JIU had endeavoured to comprehensively document current practices in the agencies surveyed, and these were described in the annexes to the report. In most cases, JIU had corrected any errors discovered in the draft version, and agencies noted that their comments had been largely taken into account. In several cases, however, agencies reported that comments intended to clarify some issues had not been fully incorporated into the text of the final report. For example, a bullet point within the executive summary regarding ethics office responsibilities stated that "[i]n the specialized agencies and IAEA, whistleblower protection policies are largely absent, or only just being developed". While the statement might be factually correct, some agencies noted that such broad statements could lead readers to assume that specific agencies did not have these important policies in place. While the relevant details could be found in the annexes to the report, specialized agencies that did indeed have such policies in place had objected to this broad-brush approach to reporting. In addition, several agencies noted examples of inaccuracies in the annex tables, and called upon JIU to issue corrections as necessary to ensure an accurate record, despite the fact that JIU had corrected known errors prior to publication of the report.

5. Finally, agencies called attention to paragraph 16 of the report, which stated: "The hope for the ethics function is that it may prevent issues from becoming problems needing conflict resolution." Agencies noted that the ethics function safeguarded the highest standards of integrity and fostered a culture of ethics, transparency and accountability by preventing conflicts of interest and safeguarding organizational integrity. Ethics functions within the United Nations did not directly

address issues of conflict in the workplace, nor did they replace other offices that dealt with conflict, such as ombudsmen. Agencies submitted that a highly effective ethics function increased ethical awareness, enhanced ethical decision-making, encouraged ethical action and supported ethical leadership. The success of an ethics function should not be measured by a reduction in workplace conflicts, disputes or grievances.

III. Specific comments on recommendations

Recommendation 1: The legislative bodies of the smaller organizations should direct their respective executive heads to put forward proposals for providing the ethics function through either a joint ethics office established by a group of organizations on a cost-sharing basis or in-sourcing to the ethics office of another organization on a cost-sharing/cost-recovery basis.

6. Noting that this recommendation is directed at governing bodies, agencies commented that it presented several challenges and would require a high degree of coordination among agencies with independent and differing governance structures and therefore on the surface might be impractical to implement. Nevertheless, while some agencies questioned its viability and practicality, several organizations noted that this possibility had been discussed at the senior level, with positive results, and that they were moving towards implementation. Therefore, while this approach could prove viable for some agencies, others might have difficulty participating owing to the specific mandate and requirements of each organization.

Recommendation 2: The executive heads should ensure that the post of head of the ethics office in their respective organizations has ethics qualifications and experience as a requirement, and this should be included in the job description for the post and in the vacancy announcement.

7. Agencies generally supported this recommendation and agreed in principle that executive heads should ensure that the head of the ethics function possessed the relevant professional qualifications and experience in the field of organizational ethics, and that these requirements should be included in the relevant job description.

Recommendation 3: The executive heads should ensure that the vacancy for the appointment of the head of the ethics office in their respective organizations is open to both internal and external candidates on an equal basis, and that the vacancy announcement is widely publicized.

8. Agencies voiced their qualified support for this recommendation, in particular if the ethics function was a full-time position within one organization or shared across several smaller organizations. However, if the ethics function was part-time and combined with other duties within the same organization, it might be difficult to advertise the ethics function requirements separately from other (part-time) duties, as these might have an impact on the overall qualifications and skills required of the successful candidate. This might limit the suitability of external candidates to fill the position. Furthermore, this recommendation could also conflict with staff regulations of individual organizations, which might give preference to internal candidates.

Recommendation 4: The executive heads should ensure that the vacancy announcement for the appointment of the head of the ethics office in their respective organizations is prepared in full consultation with the staff representatives.

9. CEB members supported this recommendation, but noted that it lacked clarity on what competencies would be required at the staff committee level to ensure added value in the preparation of the vacancy announcement for the head of an ethics office.

Recommendation 5: The executive heads should ensure that a staff representative serves on the appointment board for the selection of the head of the ethics office.

10. Agencies agreed in principle that the ethics function required the support and participation of the staff members of the organization and considered that it was useful for a staff representative to be duly consulted on the selection of the head of the ethics office, as called for in that recommendation. They noted, however, that approach might not be practical in the case of a shared ethics position (as suggested in recommendation 1), since it might require agreements between organizations and their respective staff councils.

Recommendation 6: The legislative bodies should direct their respective executive heads to apply term limits to the appointment of the head of the ethics office, which should be a non-renewable appointment of seven years, or no more than two consecutive appointments of four or five years, with no possibility of re-employment by the same organization.

11. Agencies understood that term limits (or non-renewable appointments) provided the head of the ethics office with operational independence and some job security, especially when asked to make difficult judgement calls. Therefore agencies generally supported the implementation of term limits for the heads of ethics offices; however, they indicated the need for the flexible application of such limits and referred to several examples that could make implementation of the recommendation difficult. At least one agency cited an incumbent recruited without any assignment limitation, and therefore found it difficult to apply this recommendation retroactively, while another agency cited staff rotation policies that appeared to conflict with the recommendation. In addition, agencies noted that some ethics functions might be performed by a staff member who also performed other duties for which there would be no term limits, thereby complicating the application of restrictions on the contract. Furthermore, agencies commented that the recommendation contained several possibilities for contract length, between 7 and 10 years, and expressed uncertainty regarding the benchmark that should be used to select the best approach. Finally, some agencies noted that these term limits could conflict with established staff rules and regulations regarding staff appointments and would need to be addressed by the legislative bodies.

Recommendation 7: The legislative bodies should direct their respective executive heads to ensure that the head of the ethics office submits an annual report, or a summary thereof, unchanged by the executive head, directly to the legislative body, together with any comments of the executive head thereon.

12. Agencies agreed with this recommendation and supported the submission of a report by the head of the ethics office directly to the legislative body. Agencies

noted that the legislative bodies of an organization had the prerogative to request submission of these types of report, which were limited in substance to systemic matters and work statistics.

Recommendation 8: The legislative bodies should direct their respective executive heads to ensure that the head of the ethics office has informal access to the legislative bodies which is enshrined in writing.

13. Agencies noted that ethics offices already had access to the legislative bodies through formal mechanisms, as called for in recommendation 7, and understood that informal access enabled the head of the ethics office to raise extremely serious or sensitive ethics issues. They also noted, however, that this type of access needed to be handled with extreme care, sensitivity and confidentiality in order to avoid politicization, undue influence or the appearance that the head of the ethics office was taking instructions from a Member State. Agencies generally supported the spirit of the recommendation, with the exception of the component that called for formally enshrining this access in writing, the rationale for which they did not understand.

Recommendation 9: The executive heads of United Nations system organizations who have not already done so should expedite the process of seeking membership for their respective organizations in the United Nations Ethics Committee.

14. CEB members, in particular the specialized agencies, believed that active participation in a system-wide network of ethics officers provided an appropriate forum through which to coherently apply ethics standards and policies across the system. To that end, the United Nations system-wide ethics network was created to provide a professional affiliation for international ethics practitioners. The goals of the network included: the exchange of successful practices; issuance of model guidance; internal benchmarking; peer review and programme assessment; and career development. Therefore, the specialized agencies did not believe that membership in the United Nations Ethics Committee would be necessary. The Committee continued to support the ethics officers of the United Nations agencies, funds and programmes, through which functional leadership and oversight of local ethics offices was provided by the Director of the Ethics Office of the Secretariat.

Recommendation 10: The executive heads should ensure that mandatory ethics training is provided to all staff of their respective organizations, and should take the lead by participating in this training, including mandatory refresher courses that should take place every three years.

15. Agencies noted that periodic training on ethics was considered best practice and was a key function of every ethics office. However, they observed that the periodic training (every three years) proposed in the recommendation might not be suitable for all agencies, owing to fiscal constraints, and therefore supported implementation of the recommendation within agency budgetary resources. Beyond the issue of financial constraints, agencies noted that ethics education should continue throughout a staff member's career, at regular intervals, with training being given annually or every two to three years; or in cases of significant job change, such as a promotion. They stressed that good practices in the field of organizational ethics suggested a mixture of mandatory and voluntary training geared towards the interests and professional disciplines of staff members, and with the participation of executive heads.

16. Agencies offered several alternative approaches to enhancing training, including ethics refresher courses, offered as components of other related training packages, such as legal or procurement training, which would be useful in mainstreaming ethics training. This approach could prove more cost-effective and allow comprehensive ethics refresher courses to be given less frequently. Another approach involved person-to-person dialogue, in sessions lead by line-of-sight management. These sessions would ensure that staff members discussed ethical standards and workplace conduct with their own respective managers. Ideally, organizations should deploy ethics education initiatives using a "management cascade" approach, in which each successive line of managers delivered ethics training to the staff reporting directly to him/her.

Recommendation 11: The executive heads should undertake biennial staff surveys on integrity awareness and publicize the results on the Intranets of their respective organizations.

17. Agencies did not object to conducting staff surveys and indicated that surveys on integrity awareness could help to measure the impact of an ethics agenda on organizational culture and on staff perceptions and attitudes towards the institution. Given the effort and expense associated with such activities, however, agencies noted that the JIU report should have contained a more detailed cost-benefit analysis. Nevertheless, agencies agreed to undertake this activity to the extent possible within available budgetary resources.

Recommendation 12: In cases where a prima facie case of retaliation or threat of retaliation has been found by the organization's ethics office and the internal oversight office declines to undertake the investigation, the executive head, or the head of the ethics office, should refer the matter to the Joint Inspection Unit for investigation.

18. Agencies supported the recommendation that alternative investigation mechanisms should be employed when the internal oversight office either could not (in the case of a conflict of interest, for example) or should not (owing to priorities and resource restraints, for example) undertake an investigation. Agencies agreed that JIU could provide an alternative under these rare circumstances, but strongly suggested that the recommendation should refrain from explicitly calling for JIU to proceed in such cases. Organizations further noted that the solution to the types of cases addressed in this recommendation was not to introduce a new entity, such as JIU, in addition to the internal investigative functions already established, but rather to ensure the independent authority of the internal investigative function.

Recommendation 13: The executive heads of those organizations that have not already done so should introduce a comprehensive financial disclosure policy as a matter of urgency, including annual review and random verification by the respective ethics offices of the financial disclosure statements of all officials concerned.

19. Organizations of the United Nations system supported this recommendation, but noted that the report could have been strengthened by including more substantial information on the nature and extent of the procedures for implementing financial disclosure practices. In that regard, agencies indicated, in particular, that the linkages that might give rise to actual or perceived conflicts of interest were not always clear. Agencies noted that additional information on the cost-effectiveness of

outsourced services could have helped them assess the viability of this option, considering the resources required for implementation, and in particular given that they generally considered financial disclosure as one part of a comprehensive programme for the identification and remediation of personal conflicts of interest.

Recommendation 14: Executive heads should ensure that the head of the ethics office in their respective organizations is a member of the senior management group and participates in all of its meetings, and should promulgate an administrative instrument to that effect.

20. Agencies generally agreed with this recommendation, which called for ethics office participation in senior management meetings. However, agencies noted that the term "senior management" could vary across agencies, and more clarity by JIU regarding the appropriate level of participation would have strengthened this recommendation. Nevertheless, many agencies encouraged the adoption of a pragmatic approach to its implementation, by ensuring that ethics offices participated in the senior management meetings most relevant to the ethics function and not necessarily in every meeting that brought together staff at the highest levels. Furthermore, agencies noted that, in some cases, it might not be appropriate for the ethics function to participate in senior management group meetings, given that the ethics officer would then become involved in the decision-making process and, by extension, could not independently evaluate any complaints that could arise in response to any decision taken.

Recommendation 15: The executive heads should hold an annual "town hall" meeting with the staff including a specific agenda item on ethics.

21. CEB members supported this recommendation and many agencies indicated that they had already conducted town hall meetings that included discussions of ethics issues. Some of the agencies with a more decentralized structure reported opting for ethics-related agenda items to be included in regional meetings and workshops.

Recommendation 16: The legislative bodies should direct their respective executive heads to file a financial disclosure statement, which should be reviewed in the same manner as for all other staff members who are required to file such statements.

22. Agencies, while noting that this recommendation was intended for legislative bodies, supported the spirit of this recommendation. However, CEB members noted that the current text of the recommendation diminished the oversight of the financial disclosure statements filed by executive heads of the funds and programmes. As noted in the report, executive heads of the funds and programmes currently filed their financial disclosure statements with the United Nations Ethics Office, and these were reviewed by an external body. Other staff members of organizations requiring them to submit financial disclosure statements did so to bodies internal to those organizations, which subsequently reviewed those statements. By recommending that legislative bodies should direct executive heads to "file a financial disclosure statement, which should be reviewed in the same manner as for all other staff members who are required to file such statements", the executive heads of the funds and programmes would then submit their statements to internal bodies for review, instead of the current practice of submitting the statements to the ethics office for review by an external body.

Recommendation 17: The legislative bodies should direct their respective executive heads to put forward proposals for an internal mechanism to be established that would set out the modalities for the ethics office and/or the internal oversight service to investigate or undertake reviews of allegations brought against the executive head of the organization, including reporting the outcome of the investigation or review directly to the respective legislative body.

23. Noting that this recommendation was directed at governing bodies, agencies supported the development of appropriate modalities for investigating allegations brought against an executive head, and many agencies indicated that these procedures already existed. Agencies agreed that developing the appropriate standards and processes in advance of such serious situations provided an opportunity for careful reflection and consideration. Furthermore, agencies noted the potential for an inherent, or perceived, conflict of interest if investigations of this nature were undertaken only by an internal service, and indicated that there was scope within this recommendation for incorporating an alternative practice, such as utilizing external entities.

24. Agencies also remarked that in the course of all such investigations, the due process rights of the executive head, including confidentiality, should be respected and duly safeguarded, and that any referral to an external independent investigation body should be considered only after such a need had been identified by the internal body, thereby avoiding a situation in which frivolous or obviously unsubstantiated allegations were automatically referred to a third party for investigation.